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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/067,828	02/08/2002	Satoshi Kume	011776	3040

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EXAMINER

GERRITY, STEPHEN FRANCIS

ART UNIT	PAPER NUMBER
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3721

DATE MAILED: 04/06/2004

9

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/067,828

Applicant(s)

KUME, SATOSHI

Examiner

Stephen F. Gerrity

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 February 2004.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-6 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 08 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

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**DETAILED ACTION**

***Claim Objections***

1. Claim 1 is objected to because of the following informalities:

- a. in line 5, the word "an" should be --a--; and
- b. in line 19, the phrase "which had been equipped with said high-frequency coil" should be changed to --on which said high-frequency coil is mounted--.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, lines 11 and 12, recites "wherein one of the first and second pressing member including a high-frequency heating mechanism" and lines 16 and 17, recites "wherein a high-frequency coil that forms a flat action face is mounted on one of said first and second pressing members"; these recitations

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render the claim indefinite because the claim may now require two high-frequency "elements" -- one on one of the pressing members and one on the other pressing member. The possibility of two high-frequency "elements" is not disclosed in the application. The amendments to claim 1 have resulted in the claim becoming ambiguous and indefinite. Based on the disclosure the high-frequency mechanism includes the high-frequency coil. Claim 1 should be rewritten so that the subject matter particularly points out that the high-frequency mechanism includes the high-frequency coil, and so that there is no ambiguity or possible interpretation of the claim that may require two separate high-frequency "elements".

Claim 1, lines 18 and 19, the language "a groove inscribed in the end portion inside the sealed zone on the action face of the pressing member ..." is vague and indefinite because it is unclear as to which element has the groove, is it the container or the pressing member. As the claims are directed to an apparatus, that is a high-frequency heat-sealing apparatus, it is assumed that the groove is in the action face of the pressing member. The claim(s) should be amended to particularly point out the location of the groove.

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Claim 2, the recitation "the other pressing member ..." renders the claim vague and indefinite. The amendments to claim 1 do not distinctly establish which pressing member has the high-frequency heating element (mechanism/coil) -- based on claim 1, both pressing members may have a heating element.

Claim 3 is vague and indefinite because it is assumed that the groove set forth in claim 1 is formed on the action face of the pressing member because the claims are directed to an apparatus, but the claim reads as if the groove is in the container. The claim(s) should be amended to particularly point out the location of the groove.

Claim 6, line 2, the recitation "a band-shaped magnetic member is provided adjacent to the outer side ..." renders the claim vague and indefinite because it is unclear from the claim if the magnetic member is part of one of the pressing members or part of the container. Additionally, it is unclear from the claim if the "high-frequency coil" is the same element or a different element from the "high-frequency coil" recited in claim 1.

These and any other informalities should be corrected so that the claims may particularly point out and distinctly claim

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the subject matter which applicant regards as the invention, as required by 35 U.S.C. § 112, second paragraph.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

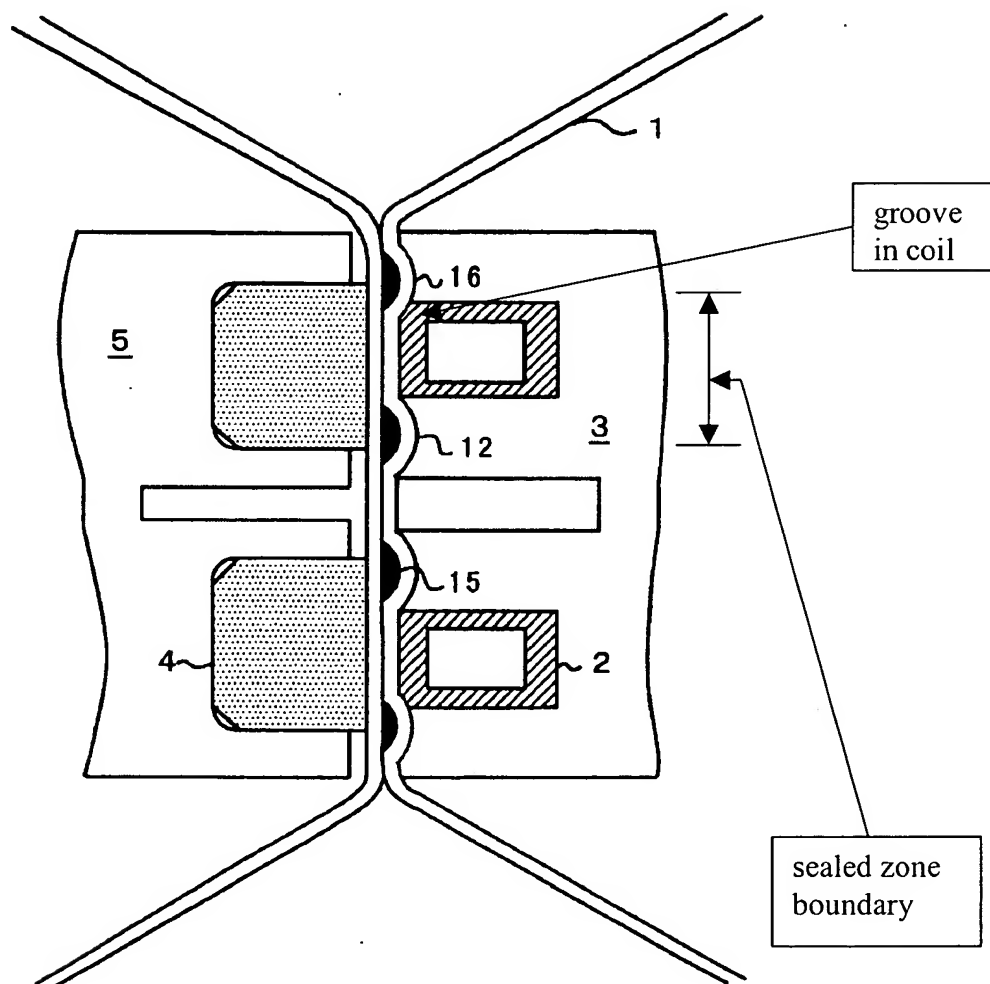
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 2 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Kume et al. (EP 0,979,723).

The Kume et al. reference meets the claimed structure set forth in claims 1, 2 and 4; in Kume et al. there is shown a container sealer (figures 8, 11 and 12), and which sealer is described in col. 6, line 1 through col. 7, line 58. The Kume et al. reference shows a groove (16) and a flash portion (12, 15). Figure 8 shows that the depth of the groove is no greater than one half of its width. Claim 1 is anticipated because the claim requires that the high-frequency coil forms a flat action face (which Kume et al. does), and that the groove be in the action face of the pressing member with the high-frequency coil (which Kume et al. has, as seen in figure 8), and that the groove formed in the high-frequency coil is within the sealed

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zone (which it is in Kume et al.) as seen in the attached figure 8.



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***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kume et al. (EP 0,979,723) in view of Hayashi (EP 0,990,587).

The Kume et al. reference meets all of applicant's claimed subject matter with the exception of the band-shaped magnetic member. The Hayashi reference discloses that it is old and well known in the sealing device art to have a band-shaped magnetic member (35) -- see col. 8, paragraph [0028]. It would have been obvious to a person having ordinary skill in the art, at the time applicant's invention was made, to have modified the sealing device of Kume et al. by having provided a band-shaped magnetic member, as taught by Hayashi, in order to have the magnetic lines of force, as emitted from the high frequency coil, deflected toward the sealed zone, so that the sealed zone



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on the container's interior side is not heated to an unnecessary temperature -- see Hayashi, col. 8, lines 23-31.

***Allowable Subject Matter***

8. Claims 3 and 5 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

9. Applicant's arguments filed 20 February 2004 have been fully considered but they are not persuasive. Applicant has argued that the Kume et al. reference does not anticipate the subject matter of claim 1 because the groove is not within the sealed zone, but such is clearly not the case as is described above in the rejection and with particular reference to the reproduced figure. Assuming that a reference is properly "prior art," it is only necessary that the claim(s) under consideration "read on" something disclosed in the reference, i.e., all limitations of the claim are found in the reference, or "fully met" by it. *Kalman v. Kimberly-Clark Corp.*, 218 USPQ 781. Anticipation under 35 USC 102 is established when a single prior art reference discloses, either expressly or under the principles of inherency, each and every element of a claimed

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invention. *RCA Corp. v. Applied Digital Data Systems, Inc.*, 221 USPQ 385. It is not necessary for the reference to teach what the application teaches or even have the same purpose.

**Conclusion**

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Stephen F. Gerrity** whose telephone number is (703) 308-1279. The examiner can normally be reached on **Monday - Friday** from 5:30 - 2:00.

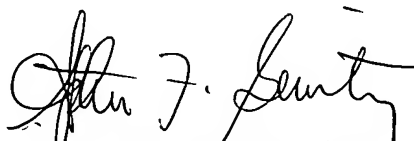
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Rinaldi Rada**, whose telephone number is (703) 308-2187, may be contacted.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the TC 3700 receptionist whose telephone number is (703) 308-1148.

  
Stephen F. Gerrity  
Primary Examiner  
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5 April 2004